

# ORDER

## DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

8300.7

9/14/81

SUBJ: CLARIFICATION OF THE RELATIONSHIP BETWEEN SFAR 38 AND FAR PARTS 121  
AND 135

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1. PURPOSE. To clarify the relationship between SFAR 38 and FAR Parts 121 and 135.

2. DISTRIBUTION. This order is distributed to the branch level in the Offices of Flight Operations and Airworthiness; and to the regional Flight Standards Divisions; to the branch level at the Flight Standards National Field Office; to all Air Carrier, Flight Standards, Engineering and Manufacturing, and General Aviation District Offices, and to all International, Aeronautical Quality Assurance, and International Aviation Field Offices.

3. BACKGROUND. SFAR 38 was published to eliminate multiple certification of operators subject to more than one FAR part, and to discontinue using the type of Civil Aeronautics Board (CAB) economic authority as certification criteria. Traditionally, the FAR parts for air carriers and air taxis coincided with the CAB economic authority for each certificate holder. This arrangement was respected when the Board extended the Part 298 exemption to large aircraft by issuing FAR Section 135.2 to specify Part 121 for certification and operation requirements. However, the Board's reaction to the Deregulation Act of 1978 was to issue a variety of authorizations that were inconsistent with the applicability sections of Parts 121, 127, and 135 and could not be accommodated by simple amendments such as, 135.2. Further, the urgency of deregulation did not provide sufficient advance notice of the CAB's various types of economic authorizations to make such amendments. For this reason, the 30-passenger, 7500-pound payload demarkation was adopted by SFAR 38 to distinguish between aircraft subject to Part 121 and those subject to Part 135. SFAR 38 was never intended to change the content or pertinent interpretations of Parts 121 and 135, other than their applicability.

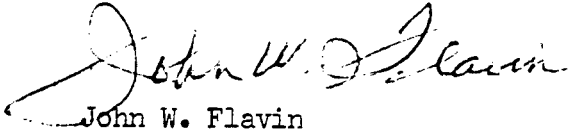
4. DISCUSSION. When a FAR part addresses a certificate holder, it normally applies only to matters the certificate holder is responsible for under that part, and those matters are defined in the applicability section of the part. Parts 121 and 135 differ in that SFAR 38 defines their applicability; i.e., Part 135 pertains to aircraft with a maximum payload of 7500 pounds or a maximum passenger capacity of 30. Part 121 applies to aircraft above those figures. We were recently informed that some operators under Part 135 are performing maintenance on aircraft under Part 121 on the basis of Section 135.437. This practice is unacceptable because the provisions of Part 135 apply only to aircraft under that part. The same applies to operators under Part 121 performing maintenance on aircraft under Part 135. However, a certificate holder under both Parts 121 and 135 can perform maintenance on another aircraft under either Part 121 or Part 135.

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AFO-500(20 copies); AAC-952(80 copies);  
A-FFS-1,2,3,5,7,8(STD), A-FIA-O(LTD)

Initiated By: AWS-330

5. ACTION. Principal inspectors should monitor their assigned operators to assure they are not performing maintenance for other certificate holders beyond that provided for by FAP Sections 121.379 or 135.437, as appropriate, unless they are exempted under Part 11 to do so.



John W. Flavin  
Acting Chief, Aircraft Maintenance Division  
Office of Airworthiness